

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

VINCENT X. LEE, Register No. 37915,)	
)	
Plaintiff,)	
)	
v.)	No. 06-4086-CV-C-SOW
)	
DAVE DORMIRE, et al.,)	
)	
Defendants.)	

ORDER

On June 2, 2006, the United States Magistrate Judge recommended that plaintiff's motion for leave to proceed in forma pauperis be denied, pursuant to 28 U.S.C. § 1915(g), because plaintiff has had three or more cases or appeals dismissed as frivolous or for failure to state a claim. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on June 15, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

The additional issues raised in plaintiff's exceptions and subsequent motion for injunction fail to allege plaintiff is in imminent danger of serious physical injury, and therefore, do not fall under the limited exception to the three-strikes provision of section 1915(g).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff's motion for injunction is denied, without prejudice [8]. It is further

ORDERED that the Magistrate Judge's June 2, 2006 Report and Recommendation is adopted [6]. It is further

ORDERED that plaintiff's motion for leave to proceed in forma pauperis is denied, and plaintiff's claims are dismissed, without prejudice, pursuant to the provisions of 28 U.S.C. § 1915(g), subject to refiling with payment of the filing fee in full [3].

/s/

SCOTT O. WRIGHT
Senior United States District Judge

Dated: July 25, 2006
Kansas City, Missouri